

MICHIGAN CODE OF MILITARY JUSTICE OF 1980 (EXCERPT)
Act 523 of 1980

32.1006a Victim rights; designation of representative; construction of section; appeals; procedures and protections; victim interviews.

Sec. 6a.

(1) A victim of an offense under this code has the rights conferred by state law in nonmilitary courts, including, but not limited to, all of the following:

- (a) The right to be reasonably protected from the accused.
- (b) The right to reasonable, accurate, and timely notice provided by military trial counsel of all of the following:
 - (i) A public hearing concerning the continuation of confinement before the trial of the accused.
 - (ii) An investigation under section 32.
 - (iii) A court-martial relating to the offense, including all related motions, hearings, pleas, sentencing hearings, alterations or suspensions, and all related filed documents.
 - (iv) A public proceeding of the service clemency and parole board relating to the offense.
 - (v) The release or escape of the accused, unless notice may endanger the safety of any individual.
- (c) The right to not be excluded from any public hearing or proceeding described in subdivision (b), unless the military judge or investigating officer under section 32, as applicable, after receiving clear and convincing evidence, determines that testimony by the victim of an offense under this code would be materially altered if the victim heard other testimony at that hearing or proceeding.
- (d) The right to be reasonably heard at all of the following:
 - (i) A public hearing concerning the continuation of confinement before the trial of the accused.
 - (ii) A sentencing hearing relating to the offense.
 - (iii) A proceeding involving clemency and parole related to the offense.
 - (iv) Any public military proceedings, including appeals, in connection with the victim's legal rights where those rights are implicated.
- (e) The reasonable right to confer beforehand with the counsel representing the government at a proceeding described in subdivision (b).
- (f) The right to receive full restitution before a forfeiture may be received by the military as provided by law.
- (g) The right to proceedings free from unreasonable delay.
- (h) The right to be treated with fairness and with respect for the dignity and privacy of the victim of an offense under this code.

(2) If a victim of an offense under this code is under 18 years of age but is not a member of the military, or is incompetent, incapacitated, or deceased, the military judge shall designate a representative of the estate of the victim, a family member, or another suitable individual who must not be the accused to assume the victim's rights under this section.

- (3) This section shall not be construed to do any of the following:
 - (a) Authorize a cause of action for damages.
 - (b) Create, enlarge, or imply a duty or obligation to a victim of an offense under this code or other individual for breach of which this state or any of its officers or employees could be held liable for damages other than restitution.
 - (c) Impair the exercise of discretion under section 30 or 34.
- (4) If the victim of an offense under this code believes that an investigating officer ruling under section 32 or a court-martial ruling violates the rights of the victim afforded by a provision specified in subsection (7), the victim may file an interlocutory appeal to the military appeals tribunal, and an automatic stay of the military proceedings takes effect on the filing of the notice of appeal until final disposition of the appeal in order to require the investigating officer or the court-martial to comply with the provision.

(5) If the victim of an offense under this code is subject to an order to submit to a deposition, whether or not the victim is available to testify at the court-martial trying the accused for the offense, the victim may appeal that order in the same manner described in subsection (4) to the military appeals tribunal to quash the order.

(6) An appeal described in subsection (4) or (5) must be forwarded directly to the chairperson of the military appeals tribunal, by means that may be prescribed by the governor, and, to the extent practicable, must have priority over all other proceedings before the military appeals tribunal.

(7) Subsection (4) applies to the protections afforded by all of the following:

- (a) This section.
- (b) Section 32.
- (c) Military Rule of Evidence 412, relating to the admission of evidence regarding a victim's sexual behavior or predisposition.
- (d) Military Rule of Evidence 513, relating to the psychotherapist-patient privilege.

(e) Military Rule of Evidence 514, relating to the victim advocate-victim privilege.

(f) Military Rule of Evidence 615, relating to the exclusion of witnesses.

(8) On notice by counsel for the government to counsel for the accused of the name of an alleged victim of an offense under this code whom counsel for the government intends to call as a witness at a proceeding under this code, counsel for the accused shall make any request to interview the victim through the special victims' counsel or other counsel for the victim, if applicable.

(9) If requested by an alleged victim who is subject to a request for interview under subsection (8), any interview of the victim by counsel for the accused must take place only in the presence of the counsel for the government, a counsel for the victim, or, if applicable, a victim advocate.

History: Add. 2024, Act 77, Imd. Eff. July 8, 2024